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RECORDATION NO. .... Filed 1425

JUN 17 1980 - 4 57 PM

INTERSTATE COMMERCE COMMISSION

FDL: TB

CC Washington, D. C.

June 16, 1980

Interstate Commerce Commission  
12th Street & Constitution Ave. N.W.  
Washington, D.C. 20423

Re: Leveraged Lease with American Grain and  
Related Industries (a Farmer-owned cooperative),  
a Lessee.

Gentlemen:

Enclosed for filing Under 49 U.S.C. 11303 are  
executed/originate originals of the following:

1. An Indenture dated as of June 10, 1980  
between United States Trust Company of  
New York and First Security Bank of Utah, N.A.
2. A Lease dated as of June 10, 1980 between  
United States Trust Company of New York and  
American Grain and Related Industries, (a  
Farmer-owned cooperative).

Very truly yours,

Frederick D. Lipman  
Frederick D. Lipman

RECEIVED  
JUN 17 4 54 PM '80  
I.C.C.  
FEE OPERATION BR.

Counterparts - Mark M. Scott

June 17, 1980

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Frederick D. Lipman  
Four Penn Center Plaza  
Philadelphia, PA. 19103

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **6/17/80** at **4:57 pm**, and assigned re-recording number(s). **11914 and 11914-A**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

THE RIGHTS OF THE LESSOR UNDER THIS EQUIPMENT LEASE AND ALL EQUIPMENT COVERED  
HEREBY HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR  
OF, FIRST SECURITY BANK OF UTAH, N.A., A NATIONAL BANKING ASSOCIATION, AS  
TRUSTEE, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF JUNE 10, 1980. THIS  
EQUIPMENT LEASE HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS. SEE SECTION  
21(e) OF THE LEASE FOR INFORMATION CONCERNING THE RIGHTS OF HOLDERS OF THE  
VARIOUS COUNTERPARTS HEREOF.

11914  
RECORDATION NO. .... Filed 1425

JUN 17 1980 -4 PW

EQUIPMENT LEASE

INTERSTATE COMMERCE COMMISSION

Dated as of June 10, 1980

between

DUPLICATE

UNITED STATES TRUST COMPANY OF NEW YORK,  
not in its individual capacity, but  
solely as trustee under a Trust Agreement  
dated as of June 10, 1980 between it and  
GENERAL ELECTRIC CREDIT CORPORATION,  
as Lessor

and

AMERICAN GRAIN AND RELATED INDUSTRIES  
(a Farmer-owned Cooperative)  
as Lessee

Filed and recorded with the Interstate Commerce Commission pursuant to 49  
U.S.C. §11303 on 6/17, 1980 at 4:57 Pm., recordation  
number 11914.

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## EQUIPMENT LEASE

THIS EQUIPMENT LEASE, dated as of the date set forth in Exhibit C hereto (The Lease), between (1) UNITED STATES TRUST COMPANY OF NEW YORK, a New York corporation, not in its individual capacity, but solely as trustee of the Trust hereinafter referred to (the Lessor) under a Trust Agreement dated as of June 10, 1980 (the Trust Agreement) between said corporation and GENERAL ELECTRIC CREDIT CORPORATION, and (2) the entity named as "Lessee" on the signature page hereof (the Lessee),

### W I T N E S S E T H :

#### SECTION 1. Definitions; Construction of References.

In this Lease, unless the context otherwise requires:

(a) All references in this Lease to designated Sections and other subdivisions are to designated Sections and other subdivisions of this Lease, and the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision.

(b) The terms defined in this Section 1 or elsewhere in this Lease shall, for purposes of this Lease and all Exhibits hereto, have the meaning assigned to them in this Section 1 or elsewhere and include the plural as well as the singular.

(c) Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof.

(d) The following terms shall have the following meanings for all purposes of this Lease:

Abatements shall have the meaning set forth in Section 4 hereof.

Appraisal shall mean the following procedure for determining a disputed amount. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other party appointing a qualified independent appraiser within 15 days after receipt from the other party of a written notice demanding an appraisal and appointing that party's qualified independent appraiser. If the second appraiser shall not have been appointed within such 15-day period, the decision of the appraiser appointed by the party demanding the appraisal shall be binding and conclusive on the Lessor and the Lessee. If within 15 days after appointment of the two appraisers, the two appraisers are unable to agree upon the amount in question, a third independent appraiser shall be chosen within five days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by an authorized representative of the American Arbitration Association or any organization successor

thereto. The decision of the third appraiser so appointed and chosen shall be given within 10 days after the selection of such third appraiser. Upon receipt of such decision, the highest or the lowest appraisal, whichever amount is further from the average amount of the other two appraisals, shall be disregarded; and the amount in question shall be the average of such other two appraisals, which amount shall be binding and conclusive on the Lessor and the Lessee. If the highest and the lowest appraisals differ from the averages of the other two appraisals by the same amount, then the amount in question, which shall be binding and conclusive as aforesaid, shall be the average amount of all three appraisals. The Lessor and the Lessee shall pay the fees and expenses of the respective appraisers appointed by them. The fees and expenses of the third appraiser, if any, shall either (A) be shared equally by the Lessor and the Lessee, if such Items should be purchased by the Lessee, or (B) if such Items should not be purchased by the Lessee, be paid by the Lessee as Supplemental Rent hereunder.

Basic Rent, Supplemental Rent and Rent shall have the meanings set forth in Section 3 hereof.

Beneficiary, Rent Commencement Date, Interest Rate, Late Payment Rate, Basic Rent Dates, First Delivery Date, Final Delivery Date, Interim Rent Date, First Basic Rent Date, Last Basic Rent Date, Expiration Date, Basic Lease Rate Factor, Daily Long-Term Debt Rate, Lease Extension Periods, Equipment Marking, Return of Equipment, and Insurance shall have the meanings set forth in Exhibit C hereto, if, and to the extent, such terms are applicable to this Lease.

Business Day shall have the meaning set forth in the Participation Agreement.

Casualty Value shall have the meaning set forth in Exhibit D hereto.

Certificate of Acceptance shall mean a certificate of acceptance substantially in the form of Exhibit B hereto.

Claims shall have the meaning set forth in Section 13 hereof.

Closing Date shall have the meaning set forth in the Participation Agreement.

Code shall mean the Internal Revenue Code of 1954, as amended.

Default shall mean an event which, after the giving of notice or lapse of time, or both, would mature into an Event of Default.

Equipment, and individually an Item or Item of Equipment, shall mean the items of equipment described in Exhibit A hereto.

Event of Default shall have the meaning set forth in Section 16 hereof.

Event of Loss shall have the meaning set forth in Section 11 hereof.

Fair Market Rental Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the amount which would be obtainable in, an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) under no compulsion to lease and an informed and willing lessor under no compulsion to lease, in accordance with a lease on terms and conditions as herein provided. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental Value with respect to an Item of Leased Equipment, such Fair Market Rental Value shall be determined in accordance with the procedure for Appraisal.

Fair Market Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the amount which would be obtainable in, an arm's-length transaction between an informed and willing buyer or user (other than a lessee currently in possession or a Person whose business includes customarily buying and selling used railroad rolling stock) under no compulsion to buy and an informed and willing seller under no compulsion to sell, and in such determination costs of removal from the location of current use shall not be a deduction from such value and all alternative uses in the hands of such buyer or user, including without limitation, the further leasing of such Item of Leased Equipment, shall be taken into account in making such determination. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Value with respect to a particular Item of Leased Equipment, such Fair Market Value shall be determined in accordance with the procedure for Appraisal.

Impositions shall have the meaning set forth in Section 8 hereof.

Improvement shall have the meaning set forth in Section 9 hereof.

Indemnity Agreement shall have the meaning set forth in the Participation Agreement.

Indenture shall mean the Trust Indenture dated as of June 10, 1980 between FIRST SECURITY BANK OF UTAH, N.A., a national banking association (the Trustee), and the Lessor.

Leased Equipment, and individually an Item of Leased Equipment, shall have the meanings set forth in Section 2 hereof.

Lessor's Cost shall mean, with respect to any Item of Leased Equipment, the amount set forth with respect thereto in Schedule 1 of the Certificate of Acceptance covering the same, which shall be the cost thereof set forth in the manufacturer's invoice therefor including taxes, storage, switching charges, and prepaid freight if any.

Liens and Lessor's Liens shall have the meanings set forth in Section 5 hereof.

Notes shall mean those promissory notes defined as Notes in the Participation Agreement issued in connection with the purchase of the Leased Equipment.

Participation Agreement shall mean the agreement, dated as of the date hereof, among the various parties thereto, including the Lessor, the Lessee, the Trustee, the Beneficiary and each entity named therein as Interim Lender or Long-Term Lender.

Person shall mean any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

Purchase Documents shall mean those documents defined as "Purchase Documents" in the Participation Agreement.

Replacement Part shall have the meaning set forth in Section 9 hereof.

Requisition of Use shall have the meaning set forth in Section 11 hereof.

Termination Date shall have the meaning set forth in Section 15 hereof.

Termination Value shall mean the Casualty Value.

## SECTION 2. Lease of Equipment.

Subject to the terms and conditions of this Lease, the Lessor hereby agrees to lease to the Lessee, and the Lessee hereby agrees to lease from the Lessor, such Items of Equipment as the Lessor shall have acquired, or become obligated to pay for, pursuant to the Purchase Documents (Leased Equipment, and individually an Item of Leased Equipment). Subject to the provisions of the Participation Agreement, upon delivery of each Item of Leased Equipment to the Lessor on or after the First Delivery Date, but on or before the Final Delivery Date, the Lessee will either (a) cause an authorized representative of the Lessee to inspect the same and, if such Item is found to be in good order, to accept such Item and to execute and deliver a Certificate of Acceptance with respect thereto, or (b) if the Lessee, acting in good faith, should find that such Item is not in good order, return the same to the manufacturer or seller thereof. Each Item of Leased Equipment delivered to the Lessee in accordance with the Purchase Documents shall be subject to the terms and conditions of this Lease from the date the Lessor shall have acquired, or become obligated to pay for, such Item.

## SECTION 3. Term and Rent.

(a) The term of this Lease shall begin on the date the first Item of Equipment shall become an Item of Leased Equipment hereunder, and shall end on the Expiration Date unless this Lease shall have been terminated, or the term of this Lease shall have been extended, by the terms hereof.

(b) The Lessee shall pay to the Lessor as basic rent (herein referred to as Basic Rent) for each Item of Leased Equipment, the following:

(1) on the Interim Rent Date, an amount equal to the Daily Long-Term Debt Rate multiplied by the Lessor's Cost of such Item, for each day elapsed from, and including, the Rent Commencement Date with respect to such Item to, but excluding, the Interim Rent Date;

(2) on the First Basic Rent Date, an amount equal to the Basic Lease Rate Factor multiplied by the Lessor's Cost of such Item; and



(3) on each Basic Rent Date thereafter to, and including, the Last Basic Rent Date, an amount equal to the Basic Lease Rate Factor multiplied by the Lessor's Cost of such Item.

(c) The Lessee shall pay to the Lessor the following amounts (herein referred to as Supplemental Rent and, together with all Basic Rent, as Rent):

(1) on demand, any amount payable hereunder (other than Basic Rent, Termination Value and Casualty Value) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor or others;

(2) on the date provided herein, any amount payable hereunder as Termination Value or Casualty Value; and

(3) on demand, to the extent permitted by applicable law, interest (computed on the basis of a 365-day year of actual days elapsed) at the Late Payment Rate on any payment of Basic Rent, Termination Value, Casualty Value or under section 3(c)(1) above not paid when due for any period during which the same shall be overdue.

(d) Subject to the provisions of the Participation Agreement, all payments of Rent hereunder shall be made so that the Lessor shall have immediately available funds in Salt Lake City, Utah at 11:00 a.m. local time on the date payable hereunder and shall be paid to the Lessor at its address set forth herein or at such other address as the Lessor may direct by notice in writing to the Lessee.

#### SECTION 4. Net Lease.

This Lease is a net lease, and the Lessee acknowledges and agrees that the Lessee's obligation to pay all Rent hereunder, and the rights of the Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment (Abatements) for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, or against the manufacturer or seller of any Item of Leased Equipment. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the obligations of the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Leased Equipment or any Item thereof from whatsoever cause, or the interference with the use thereof by the Lessor or any Person, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or any failure of the Lessor to perform any obligation of the Lessor to the Lessee or any other Person under this Lease, the Participation Agreement or any instrument or document executed in connection herewith, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

#### SECTION 5. Return of Equipment.

Except as otherwise directed by Lessor pursuant to section 17 hereof, upon the expiration or termination of this Lease the Lessee, at its own risk and expense, will return the Leased Equipment then subject to this Lease to the Lessor pursuant to the Lessor's instructions set forth under the heading Return of Equipment in Exhibit C to this Lease and in the condition in which such Leased Equipment is required to be maintained pursuant to Section 9 hereof. Such Leased Equipment, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, claims or other encumbrances (Liens) other than Liens either (a) created or granted by the Lessor, including any such Liens created or granted in connection with the purchase or financing of the Leased Equipment, or (b) resulting from claims against the Lessor not related to the Lessor's ownership of the Leased Equipment (Liens described in clauses (a) and (b) above being herein referred to as Lessor's Liens). If the Lessee shall have affixed or attached any Improvement to any Item of Leased Equipment redelivered pursuant hereto, the Lessee will, on or before the date of redelivery and at its own expense, remove such Improvement if requested to do so by the Lessor.

#### SECTION 6. Warranty of the Lessor.

(a) The Lessor warrants that during the term of this Lease, if no Event of Default has occurred, the Lessee's use of the Leased Equipment shall not be interrupted by the Lessor or anyone validly claiming solely through or under the Lessor.

(b) The warranty set forth in paragraph (a) of this Section is in lieu of all other warranties of the Lessor, whether written, oral or implied with respect to this Lease or the Leased Equipment, and the Lessor shall not be deemed to have modified in any respect the obligations of the Lessee pursuant to Section 4 hereof, which obligations are absolute and unconditional; and the Lessor shall not be deemed to have made, and THE LESSOR HEREBY DISCLAIMS, ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE LEASED EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE LEASED EQUIPMENT OR CONFORMITY OF THE LEASED EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT OR ABSOLUTE LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder, all of the Lessor's rights under any applicable manufacturer's warranty and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify and hold harmless the Lessor, in its individual and trust capacities, from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to, any action by the Lessee pursuant to the above authorization. Any amount received by the Lessee or Lessor as payment under any such warranty shall be applied to restore the Leased Equipment to the condition required by Section 9 hereof and to reimburse the Lessee for its proper expenses in connection therewith, with the balance of such amount, if any, to be paid over to the Lessor.

## SECTION 7. Liens.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Leased Equipment, the Lessor's title thereto or any interest of the Lessor therein (and the Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such Lien), except (a) Lessor's Liens, (b) Liens for taxes either not yet due or being contested by the Lessee in good faith with due diligence and by appropriate proceedings, if counsel for the Lessor shall have determined that the nonpayment of any such tax or the contest of any such payment in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor, and (c) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent.

## SECTION 8. Taxes.

The Lessee agrees to pay and to indemnify the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment for, and hold the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment harmless from and against, all income, franchise, sales, use, personal property, ad valorem, value added, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges, or withholdings of any nature, together with any penalties, fines or interest thereon (Impositions), arising out of the transactions contemplated by this Lease and imposed against the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment, the Lessee or any Item of Leased Equipment by any Federal, state, local or foreign government or taxing authority upon or with respect to any Item of Leased Equipment or upon the sale, purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease (excluding, however, taxes on, or measured solely by, the net income of the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment) unless, and only to the extent that, the Lessee shall have given to the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment written notice of any such Imposition, which notice shall state that such Imposition is being contested by the Lessee in good faith with due diligence and by appropriate proceedings and counsel for the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment shall have determined that the nonpayment of any such tax or the contest of any such payment in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment. If a claim is made against the Lessee or the Trustee and any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made with respect to any obligation of the Lessee under this Section or arising out of this Section, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership of the Leased

Equipment in the Lessor and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor agrees to cooperate fully with the Lessee in the preparation of any such report or return.

SECTION 9. Use, Maintenance and Operation; Equipment Marking.

(a) The Lessee agrees that each Item of Leased Equipment will be used in interstate commerce and predominantly within the contiguous continental United States within the meaning of §48(a) of the Code and in no event will the Leased Equipment be outside the contiguous continental United States if such use would result in the Beneficiary not being entitled, at all times during the term of this Lease, to treat for Federal income tax purposes each item of income, deduction and credit relating to all the Items of Leased Equipment as being derived from, or allocable to, sources within the United States and in no event shall more than 10% of the Leased Equipment be outside the contiguous continental United States at any one time and in no event shall any Item of Leased Equipment be outside the contiguous continental United States without prior written notice to the Lessor and all holders of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment and an opportunity for the Lessor and such holders of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment, at Lessee's expense, to file or otherwise perfect any security interest in the Leased Equipment in the respective foreign jurisdiction and each Item of Leased Equipment will be used in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use thereof, and the Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of ownership by the Lessor of the Item of Leased Equipment or the leasing thereof to the Lessee. Throughout the term of this Lease, the possession, use and maintenance of each Item of Leased Equipment shall be at the sole risk and expense of the Lessee.

(b) The Lessee shall use the Items of Leased Equipment only in the manner for which they were designed and intended and will, at its own cost and expense, maintain each Item of Leased Equipment substantially in accordance with the manufacturer's recommended maintenance procedures and standards, repair and maintain each Item of Leased Equipment so as to keep it in as good operating order, repair and condition as when delivered to the Lessee hereunder, ordinary wear and tear excepted and in the same condition as other similar equipment of a similar age owned or leased by the Lessee. Any replacement made by the Lessee upon an Item of Leased Equipment in connection with repairing such Item shall be considered an accession to such Item, and title to such replacement part (any such replacement part being herein referred to as a Replacement Part) shall upon installation or affixation thereof, automatically vest in the Lessor. Effective upon installation or affixation of any Replacement Part, the Lessor shall be deemed to have disclaimed ownership of, and the Trustee shall be deemed to have released its security interest in, the original part so replaced.

(c) The Lessee may, without the prior written consent of the Lessor, either (1) repair any Item of Leased Equipment by the installation of a Replacement Part, or (2) affix or install any accessory, equipment or device on any Item of Leased Equipment or make any improvement or addition thereto (any such accessory, installed equipment or device, improvement or addition affixed or installed pursuant to this clause (2) being herein referred to as an Improvement) if such Improvement is identifiable by serial number or otherwise, will not impair the originally intended function or use of any such Item and is readily removable without causing material damage to such Item of Leased Equipment. Any other Improvement may be affixed or installed only with the prior written consent of the Lessor. Only such Improvements which are not so readily removable or which are necessary to the use and operation of the Leased Equipment and which have been attached or affixed to any Item with the consent of the Lessor shall upon attachment or affixation become the property of the Lessor and thereupon each such Improvement shall become a part of the Item of Leased Equipment to which it is affixed or on which it is installed.

(d) The Lessee agrees that each Item of Leased Equipment shall be, and shall continue to be throughout the term of this Lease, personal property under applicable law. The Lessee agrees (1) to take such action as shall be required from time to time by the Lessor to protect the Lessor's title to each such Item and the right of the Lessor to remove the same, and (2) not to affix any Item of Leased Equipment to any real property if, as a result thereof, any such Item will become a fixture under applicable law.

(e) The Lessee agrees, at its own cost and expense, to (1) cause each Item of Leased Equipment to be kept numbered with the identification or serial number therefor as specified in the Certificate of Acceptance therefor, which shall be one of the identification numbers set forth in Exhibit A hereto, and (2) maintain the Equipment Marking on each Item of Leased Equipment and such other markings as from time to time may be required by law or otherwise deemed necessary or desirable by the Lessor in order to protect the title of the Lessor to such Item of Leased Equipment, the rights of the Lessor under this Lease and the Lien granted by the Lessor in financing the Lessor's Cost of the Leased Equipment or to facilitate identification or location of the Leased Equipment. The Lessee will not place any Item of Leased Equipment in operation or exercise any control or dominion over the same until such Equipment Marking has been placed thereon. The Lessee will replace promptly any such Equipment Marking which may be removed, defaced or destroyed. The Lessee may place its name or logo or other markings identifying Lessee on the Leased Equipment, provided however, except as otherwise required in (1) or (2) above, the name, logo, or marking of no other Person may be placed on the Leased Equipment.

(f) The Lessee agrees to comply in all respects (including without limitation with respect to the use, maintenance and operation of each Item of Leased Equipment) with all laws of the jurisdictions in which its operations involving the Items of Leased Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules, regulations and orders of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Items of Leased Equipment, and in the event that such laws, rules, regulations and orders

require any alteration, replacement or addition of or to any part on any Item of Leased Equipment, the Lessee, except as otherwise set forth in section 15 hereof, will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease.

#### SECTION 10. Inspection.

Commensurate with the use of the Leased Equipment, the Lessor, its agents and representatives shall have the right, but not the duty, to inspect the Leased Equipment provided such inspection does not unreasonably disrupt the business of the Lessee. Upon the request of the Lessor, the Lessee shall confirm to the Lessor the location of each Item of Leased Equipment and shall, at any reasonable time, make the Leased Equipment, and the Lessee's records pertaining to the Leased Equipment, available to the Lessor for inspection.

#### SECTION 11. Loss or Destruction; Requisition of Use.

(a) In the event that any Item of Leased Equipment shall be or become damaged, worn out, destroyed, lost, stolen, or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise (any such taking being herein referred to as a Requisition of Use), or any Item of Leased Equipment is returned to the manufacturer or seller thereof pursuant to the patent indemnity or warranty provisions of the Purchase Documents, such fact shall promptly be reported by the Lessee to the Lessor.

(b) The Lessee shall determine, within 180 days after the date of occurrence of any such damage or wearing out, whether such Item of Leased Equipment can be repaired.

(c) In the event the Lessee determines that such Item cannot be repaired or in the event of such destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the term of this Lease, or return of such Item to the manufacturer or seller thereof without replacement thereof (any of such occurrences being referred to as an Event of Loss, and the date thereof being the date of such damage, wearing out, destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the term of this Lease, or return of such Item to the manufacturer or seller thereof without replacement thereof), the Lessee shall promptly notify the Lessor of such Event of Loss. On the Basic Rent Date next following the date of such Event of Loss, the Lessee shall pay to the Lessor the Casualty Value of such Item determined as of such Basic Rent Date, together with any Rent then due. In the event the Lessee determines that such Item can be repaired, the Lessee shall continue to make all payments of Basic Rent due with respect to such Item and shall cause such Item to be repaired within 180 days after the occurrence of such damage or wearing out; provided, however, that if the Lessee shall, within such 180-day period, be diligently pursuing such repair, but is prevented from completing such repair within such 180-day period due to causes beyond the Lessee's control, then the time for repair

shall be extended by the number of days necessary to complete such repair up to a maximum of 90 additional days, and provided, further, if such repair is not completed within said 90 additional days, the Lessee shall so notify the Lessor, setting forth in reasonable detail the reasons such repair has not been completed, whereupon Lessor may, in its reasonable discretion, extend the period for completion of such repairs, and provided, further, that if the Lessee shall fail to repair such Item within such repair period, including any extension thereof, the Lessee shall, on the Basic Rent Date next following the end of such repair period, including any extension thereof, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due. If at such time no more Basic Rent is or will become payable under this Lease, the Casualty Value shall be paid within 30 days following, as appropriate, the Event of Loss or the repair period. The obligation of the Lessee to pay Rent during the above-described repair period shall remain in full force and effect. Upon making such Casualty Value payment in respect of such Item and all Rent due and owing with respect thereto, the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment, shall remain unchanged. The Lessor shall be under no duty to the Lessee to pursue any claim against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be satisfactory to the Lessor.

(d) Following payment of the Casualty Value of an Item of Leased Equipment in accordance with the provisions of paragraph (c) of this Section, the Lessee shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an as is, where is basis without recourse, representation or warranty, express or implied. As to each separate Item so disposed of, the Lessee may, after paying the Lessor the amounts specified in paragraph (c) of this Section, retain all amounts of such price up to the Casualty Value thereof and the Lessee's reasonable costs and expenses of disposition attributable thereto, plus damages received by the Lessee by reason of such Event of Loss (other than damages attributable to loss of market value) and shall remit the excess, if any, to the Lessor. As to each Item of Leased Equipment returned to the manufacturer or seller thereof in the manner described in paragraph (c) of this Section and not replaced or modified by such manufacturer or seller pursuant to the patent indemnity or warranty provisions of the Purchase Documents, the Lessor agrees that the Lessee shall receive and retain all amounts payable to the Lessor by such manufacturer or seller for the return of such Item, up to the Casualty Value paid by the Lessee to the Lessor hereunder, and any excess shall be paid over to or retained by the Lessor. As to each Item of Leased Equipment modified or replaced by the manufacturer or seller pursuant to the patent indemnity or warranty provisions of the Purchase Documents, the Lessor and the Lessee agree that possession of such modified Item or replacement Item shall be delivered to the Lessee and shall, without any further act of the Lessor or the Lessee, be considered an Item of Leased Equipment for all purposes of this Lease.

(e) Except as provided in this Section, the Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage to any Item of Leased Equipment or any Event of Loss relating thereto.

(f) In the case of a Requisition of Use of any Item of Leased Equipment for an indefinite period or for a stated period which does not exceed the term of this Lease, such Requisition of Use shall not terminate this Lease with respect to such Item and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums received by reason of any such Requisition of Use except any sums received attributable to periods after the term of this Lease which shall belong solely to Lessor.

#### SECTION 12. Insurance.

At its own expense, the Lessee will cause to be carried and maintained casualty insurance with respect to each Item of Leased Equipment and public liability insurance, in each case in amounts and against risks customarily insured against by the Lessee on similar equipment or, if the Lessee shall have no such similar equipment, in amounts and against risks comparable to those insured against by the Lessee on other equipment owned by it, but in no event in amounts less than the amounts set forth under the heading Insurance in Exhibit C to this Lease with respect to casualty insurance and public liability insurance. Any policies with respect to such insurance shall (1) be with an insurance carrier acceptable to the Lessor, (2) name the Lessor, in its individual and trust capacities, the Trustee (as assignee and secured party) and the Lessee as assureds and loss payees, as their interests may appear, (3) provide for at least 30 days' prior written notice by the insurance carrier to the Lessor and Trustee in the event of cancellation, expiration or material modification; and (4) provide that neither the Lessor nor the Trustee shall have any obligation or liability with respect to any assessment or unpaid premium. The Lessee shall, prior to the First Delivery Date and annually thereafter on the anniversary thereof, furnish appropriate evidence of such insurance. Any proceeds of any business interruption insurance carried by Lessee shall belong solely to Lessee.

#### SECTION 13. Indemnification.

The Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor, in both its individual and trust capacities, from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability in tort), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever (Claims) which may be imposed on, incurred by or asserted against the Lessor, whether or not the Lessor shall also be indemnified as to any such Claim by any other person, in any way relating to or arising out of this Lease or any document contemplated hereby, or the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Leased Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable and any Claim for patent, trademark or copyright infringement); provided, however, that the Lessee shall not be required to



indemnify the Lessor for (a) any Claim in respect of any Item of Leased Equipment arising solely from acts or events which occur after possession of such Item of Leased Equipment has been redelivered to the Lessor in accordance with Section 5 hereof, or (b) any Claim resulting from acts which would constitute the willful misconduct or gross negligence of the Lessor. To the extent that the Lessor in fact receives indemnification payments from the Lessee under the indemnification provisions of this Section, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the transaction or event requiring or giving rise to such indemnity; provided, however, that the Lessee shall not enforce any such rights by legal proceedings without the Lessor's approval, which approval shall not be unreasonably withheld. THE LESSEE AGREES THAT THE LESSOR SHALL NOT BE LIABLE TO THE LESSEE FOR ANY CLAIM CAUSED DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF ANY ITEM OF LEASED EQUIPMENT FOR ANY PURPOSE OR ANY DEFICIENCY OR DEFECT THEREIN OR THE USE OR MAINTENANCE THEREOF OR ANY REPAIRS, SERVICING OR ADJUSTMENTS THERETO OR ANY DELAY IN PROVIDING OR FAILURE TO PROVIDE ANY THEREOF OR ANY INTERRUPTION OR LOSS OF SERVICE OR USE THEREOF OR ANY LOSS OF BUSINESS, ALL OF WHICH SHALL BE THE RISK AND RESPONSIBILITY OF THE LESSEE.

#### SECTION 14. Sublease.

The Lessee will not, without the prior written consent of the Lessor, sublet or otherwise relinquish possession of any Item of Leased Equipment or assign any of its rights hereunder. Lessor will use its best efforts to make a determination with regard to such consent and notify Lessee with regard thereto, within 10 days after receipt by Lessor of a request from Lessee. Notwithstanding the foregoing, without the consent of any party, Lessee may (1) sublease all or a portion of the Leased Equipment to any member of Lessee (2) sublease all or a portion of the Leased Equipment to any responsible party whose principal place of business is in the United States provided that not more than 25 Items of Leased Equipment may be subleased to any one Person, (3) sublease all or a portion of the Leased Equipment to responsible parties whose principal place of business is in the United States for periods of up to seven months, (4) assign its leasehold interest to Agri-Leasit Company, an Iowa corporation, if it is a wholly owned subsidiary of Lessee, and (5) otherwise assign its leasehold interest in accordance with the Participation Agreement. No sublease shall be permitted hereunder unless (a) the rights of the sublessee thereunder are expressly subject and subordinate to the rights of the Lessor and any security assignee of the Lessor, and (b) the Items of Leased Equipment to be subleased shall be used in interstate commerce predominantly in the contiguous continental United States within the meaning of §48(a) of the Code and in no event will the Leased Equipment be outside the contiguous continental United States if such use would result in the Beneficiary not being entitled, at all times during the term of this Lease, to treat for Federal income tax purposes each item of income, deduction and credit relating to all the Items of Leased Equipment as being derived from, or allocable to, sources within the United States and in no event shall more than 10% of the Leased Equipment be outside the contiguous continental United States at any one time and in no event shall any Item of Leased Equipment be outside the contiguous continental United States without prior written notice to the Lessor and all holders of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment and an opportunity for the Lessor and such holders of obligations of the Lessor issued in

connection with the purchase or acquisition of the Leased Equipment, at Lessee's expense, to file or otherwise perfect any security interest in the Leased Equipment in the respective foreign jurisdiction and such Items of Leased Equipment shall be used in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use thereof. The obligations of Lessee contained in this Lease shall still be applicable, notwithstanding any sublease or assignment and no sublease, other relinquishment of the possession of any Item of Leased Equipment, or assignment by the Lessee of any of its rights hereunder shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder.

#### SECTION 15. Economic Obsolescence.

The Lessee shall have the right, at its option and on at least 180 days' prior written notice to the Lessor, to terminate this Lease as to all but not less than all of the Items of Leased Equipment as of any succeeding rental payment date specified in such notice (such termination date so specified being hereinafter called the Termination Date); provided, however, that (i) the Termination Date shall not be earlier than August 1, 1990, (ii) no Event of Default or other event which after the lapse of time or the giving of notice or both would become an Event of Default shall have occurred and be continuing on such date, (iii) on the Termination Date all Items of Leased Equipment shall be in the condition that would have been required for redelivery pursuant to this Lease, (iv) the Board of Directors of the Lessee shall have made a good faith determination that the Items of Leased Equipment have become both uneconomical and obsolete for use in the Lessee's operations and (v) an independent consultant retained by Lessee, at its expense, and approved in writing by Lessor and by a Directive (as defined in the Indenture), shall have concluded that the items of Leased Equipment have become both uneconomical and obsolete for use in Lessee's operations; provided further, if the cost of any alteration, replacement, or addition required by section 9(f) as determined by an independent consultant retained by Lessee, as its expense, and approved in writing by Lessor and by a Directive (as defined in the Indenture) exceeds the Termination Value of the Leased Equipment less salvage value (as determined by such independent consultant) then the Leased Equipment shall be deemed both uneconomical and obsolete for use in Lessee's operation, and if Lessee complies with clauses (i), (ii) and (iv) above, then Lessee may elect to terminate this Lease under this section 15, and if Lessee so elects to terminate and if all other terms and conditions of this section 15 other than clauses (iii) and (v) above are complied with, then, notwithstanding clause (iii) above, Lessee shall not be required to make such alterations, replacements or additions required by section 9(f). During the period from the giving of such notice until the fifth Business day preceding the Termination Date, the Lessee shall use its best efforts to obtain bids for the purchase of the Items of Leased Equipment, and the Lessee shall at least five Business Days prior to the Termination Date certify to the Lessor the amount of each such bid and the name and address of the party (which shall not be a corporation or individual affiliated with the Lessee or any party from whom the Lessee or any such affiliate intends thereafter to lease the Items of Leased Equipment) submitting such bid. On the Termination Date the Lessor shall, subject to the Lessee's obtaining, on behalf of the Lessor, any governmental consents required, sell the Items of Leased Equipment for cash to the bidder who shall have submitted the highest bid prior to the Termination Date. The total sales price realized at such sale shall be paid to the Lessor in immediately available funds on the Termination Date and, in addition, on the Termination Date the Lessee shall pay

to the Lessor an amount equal to the premium, if any, payable by the Lessor pursuant to Section 5.1 of the Indenture plus the excess, if any, of (x) the Termination Value in respect of the Items of Leased Equipment over (y) the net sales price of the Items of Leased Equipment after deducting from such sales price any and all costs and expenses whatsoever incurred in connection with such sale. If no sale shall occur on the Termination Date for any reason whatsoever (unless the Lessor shall have elected to retain the Items of Leased Equipment pursuant to the next succeeding paragraph and the Lessee shall have complied with all of the provisions of said paragraph), this Lease shall continue in full force and effect without change unless and until the Lessee pays to the Lessor an amount equal to the Termination Value plus the amount of such premium, if any, provided, however, that the Lessee, on behalf of the Lessor, may attempt to sell the Units at some later date upon 150' days prior written notice to the Lessor and following the procedure set forth above. The Lessor shall be under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost of expense in connection with any sale pursuant to this Section 15, other than to transfer or to cause to be transferred all of the Lessor's right, title and interest in and to such Items of Leased Equipment to the purchaser named in the highest bid certified by the Lessee to the Lessor as above provided.

If the Lessee shall exercise its option to terminate under this Section 15, the Lessor may, notwithstanding such election by the Lessee, upon prepayment in full of the Notes in accordance with the Indenture, by written notice to the Lessee given within 50 days after the termination notice is given to the Lessor, elect to retain the Items of Leased Equipment then subject to this Lease, in which case the Lessee shall not be obligated to obtain bids for the purchase of such Items of Leased Equipment or to pay the Termination Value to the Lessor. In the event the Lessor shall so elect to retain the Items of Leased Equipment, the Lessee shall assemble and deliver the Items of Leased Equipment to the Lessor in accordance with the provisions hereof as if the original or any extended term of this Lease had expired on the Termination Date and after such delivery and upon payment by the Lessee to the Lessor of any Basic Rent and Supplemental Rent accrued and unpaid to and including the date of such delivery the Lessee shall have no liability for any Basic Rent accruing hereunder with respect to such Items of Leased Equipment on or after the date of such delivery.

#### SECTION 16. Events of Default.

The term Event of Default, wherever used herein, shall mean any of the following events under this Lease (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary, or come about or be effected by operation of law, or be pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) The Lessee shall fail to make any payment of Rent when the same shall become due, provided, however, Lessee may be up to 3 days late on one Basic Rent payment per year without it being an Event of Default hereunder; or

(b) The Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Lease, the Participation Agreement or any agreement, document or certificate delivered by the Lessee in connection herewith, and such failure shall continue for 20 days after written notice thereof from the Lessor to the Lessee; or

(c) Any representation or warranty made by the Lessee in this Lease, the Participation Agreement or any agreement, document or certificate delivered by the Lessee in connection herewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(d) A petition in bankruptcy or for reorganization, dissolution, liquidation, or arrangement shall be filed by the Lessee, or the Lessee shall make an assignment for the benefit of creditors or consent to the appointment of a trustee or a receiver; or a trustee, receiver, or similar judicial officer under Federal, state or local law shall be appointed for the Lessee, for any Item of Leased Equipment, or for a substantial part of the Lessee's property without its consent and any such officer shall not be dismissed within a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted against the Lessee and shall not be dismissed within a period of 60 days; or

(e) The Lessee shall be in default (which default shall not be waived or cured) under any material obligation for the payment of borrowed money or for the deferred purchase price of, or for the payment of any rent under any lease agreement covering, material real or personal property, and the applicable grace period with respect thereto shall have expired and the obligations shall not be contested in good faith with due diligence and by appropriate proceedings; or

(f) The Lessee shall (except as expressly permitted by the provisions of this Lease) attempt to remove, sell, transfer, encumber, part with possession of, assign or sublet any Item of Leased Equipment; or

(g) Receipt of notice by the Lessee from the Beneficiary that it is in default under the Indemnity Agreement; or

(h) An authorized representative of the Lessee shall make a statement (oral or written) to a general meeting of creditors, or a duly authorized written statement to all of its creditors, that it cannot pay its debts as they mature.

#### SECTION 17. Remedies.

(a) Upon the occurrence of any Event of Default and so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter, the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall lawfully elect:

(1) Proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof.

(2) Demand that Lessee pay to Lessor, and Lessee shall forthwith pay to the Lessor, an amount equal to any unpaid Rent due and payable for all periods up to and including the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default, plus, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the Casualty Value of the Leased Equipment then subject to this Lease, computed as of the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default.

(3) By notice in writing terminate this Lease, whereupon all rights of the Lessee to the use of the Leased Equipment shall absolutely cease and terminate but the Lessee shall remain liable as herein provided.

(4) Demand that Lessee, and Lessee shall upon written demand of Lessor, at its own risk and expense promptly return the Leased Equipment to the possession of the Lessor at such place as the Lessor shall designate and in the condition required upon the return thereof pursuant to and in accordance with the terms hereof, or the Lessor, at its option, may enter upon the premises where the Leased Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise. The Lessee shall store, maintain, and insure the Leased Equipment at its storage facility, or any storage facility approved by the Lessor at Lessee's cost until possession is taken by the Lessor or for 365 days after the Event of Default, whichever shall first occur.

(5) Following the return of the Leased Equipment to the Lessor pursuant to this Section, proceed to hold, keep idle, operate, lease or sell the Leased Equipment in such manner as it shall deem appropriate. The proceeds of such lease or sale shall be applied by the Lessor (A) first, to all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor as a result of the default and the exercise of its remedies with respect thereto, (B) second, to pay to the Lessor an amount equal to any unpaid Rent due and payable and the Casualty Value, to the extent not previously paid, and (C) third, to reimburse the Lessee for the Casualty Value to the extent previously paid by the Lessee as liquidated damages and any deficiency in the amount due Lessor under (A) or (B), above, shall be forthwith paid by Lessee to Lessor. Any surplus remaining thereafter shall be retained by the Lessor.

(b) The Lessee shall be liable for all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto and shall indemnify Lessor for such amount.

(c) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor at law or in equity. No express or implied waiver by the Lessor of any Default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Default or Event of Default. The failure or delay of the Lessor in exercising any rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by the Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

#### SECTION 18A. Duty of First Offer.

(a) Lessor may, at any time within 30 days prior to the due date of the 68th Basic Rent payment, give Lessee written notice of Lessor's intention to sell or lease the Leased Equipment upon expiration of this Lease. After receipt of said notice and at any time within 60 days after the due date of the 68th Basic Rent payment, the Lessee may, by written notice to the Lessor, elect to purchase or lease, as the case may be, the Leased Equipment at the

Fair Market Value or Fair Market Rental Value thereof, as appropriate. The consummation of such sale or the commencement of the term of such lease shall be on and as of the date of expiration of this Lease. If the Lessee fails to deliver such written notice within such period, the Lessor shall be free to sell, lease or otherwise dispose of such Items of Leased Equipment to any third party.

(b) In the event the Lessee exercises such right of first refusal to purchase any Item of Leased Equipment, then, upon payment of the purchase price, the Lessor shall, upon request of the Lessee, execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Item of Leased Equipment is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Item of Leased Equipment, and such other documents as may be required to release such Item of Leased Equipment from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

#### SECTION 18B. Lessor's Right to Perform for Lessee.

If the Lessee fails to make any payment of Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor or the Beneficiary may make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of the Lessor or the Beneficiary incurred in connection with such payment or performance of, or compliance with, such agreement, as the case may be, together with interest thereon at the Late Payment Rate, shall be deemed an indemnity and Supplemental Rent, payable by the Lessee upon demand.

#### SECTION 18C. Weekly Reports.

After an Event of Default shall have occurred and so long as it shall be continuing, the Lessee at its sole expense will provide the Lessor and Trustee with weekly reports detailing location, condition and destination for the following week, for all Items of Leased Equipment in the possession of Lessee.

#### SECTION 18D. Cost of Amendments.

The Lessee shall pay all costs and fees of the Lessor, Beneficiary, Trustee, and holders of the obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment to amend or supplement, at the request of Lessee, this Lease, the Participation Agreement, Indenture, Trust Agreement or Indemnity Agreement.

SECTION 19. Notices.

All communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first-class mail prepaid, addressed to the party being given such notice as follows:

LESSOR

United States Trust Company of New York  
130 John Street  
New York, New York 10038

Attention: Corporate Trust and Agency Division

TRUSTEE

First Security Bank of Utah, N.A.  
Suite 310  
79 South Main Street  
Salt Lake City, Utah 94111

Attention: Trust Division, Corporate Trust Department

with copies to:

INA Life Insurance Company  
c/o INA Capital Advisors, Inc.  
P. O. Box 8087  
Philadelphia, Pennsylvania. 19101

Attention: Private Placement Unit - Mr. Gary Brown

American States Life Insurance Company  
500 North Meridian Street  
Indianapolis, Indiana 46207

Attention: Mr. William Krasen

*Not this one*  
Employers Mutual Liability Insurance Company  
2000 Westward Drive  
Wausau, Wisconsin 54401

Attention: Mr. Steve Coleman

United Farm Bureau Family Life Insurance Company  
130 East Washington Street  
Indianapolis, Indiana 46204

Attention: Mr. Robert McAdoo

Maccabees Mutual Life Insurance Company  
25800 Northwestern Highway  
Southfield, Michigan 48037

Attention: Mr. James Ross

Mutual Service Life Insurance Company  
Two Pine Tree Drive  
P. O. Box 43035  
St. Paul, Minnesota 55164

Attention: Mr. Ronald Dennis

Blank, Rome, Comisky & McCauley  
Four Penn Center Plaza  
11th Floor  
16th & J.F.K. Boulevard  
Philadelphia, Pennsylvania 19103

Attention: Mr. Frederick D. Lipman, Esquire

BENEFICIARY, at its address set forth in Exhibit C hereto.

LESSEE, at its address set forth in the signature page hereof.

Or at such other address as any party hereto may from time to time designate by notice duly given in accordance with the provisions of this Section to the other parties hereto.

SECTION 20. Successors, Assigns and Indemnified Parties.

This Lease, including all agreements, covenants, representations and warranties shall be binding upon and inure to the benefit of (1) the Lessor and its successors, assigns, agents, servants and personal representatives, and, where the context so requires, (i) the Beneficiary, and (ii) the Trustee, as assignee and secured party, and (iii) holders of obligations of Lessor issued in connection with the purchase or acquisition of the Leased Equipment, and the successors, assigns, agents, servants and personal representatives of the Beneficiary and the Trustee, as assignee and secured party, and such holders of the obligations of Lessor, and (2) the Lessee and its successors and, to the extent permitted hereby, assigns. With respect to the provisions



of Section 6, 13, 17(b) and 18D hereof, the Beneficiary, the Trust Estate, as such term is defined in the Trust Agreement, the Trustee, as assignee and secured party, any holder of obligations of the Lessor issued in connection with the purchase or acquisition of the Leased Equipment, and the successors, assigns, agents, servants and personal representatives of the foregoing shall each be indemnified thereunder and, with respect to clause (b) of the provision to Section 13 hereof, the willful misconduct or gross negligence of the Lessor or any one such person shall not affect the rights of any other person indemnified under such Section 13.

SECTION 21. Amendments and Miscellaneous.

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; provided, however, that no such waiver, alteration, modification, amendment or supplement shall make any change, and no termination shall be made, which is prohibited by the Indenture without the consent of the Trustee.

(b) All agreements, indemnities, representations and warranties contained in this Lease, the Participation Agreement or in any agreement, document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease.

(c) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(d) This Lease shall constitute an agreement of lease and nothing herein shall be construed as conveying to the Lessee any right, title or interest in or to the Leased Equipment, except as Lessee only.

(e) The single executed original of this Lease marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates". To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be created through the transfer or possession of any counterpart other than the "Original".

(f) This Lease shall be governed by and construed in accordance with the laws of the State of New York.

(g) The division of this Lease into sections, the provision of a table of contents and the insertion of section headings are for the convenience of reference only and shall not affect the construction or interpretation of this Lease.

(h) Although this Lease is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth under the signatures hereto, and this Lease shall be effective on the latest of such dates.

(i) This Lease may be executed in any number of counterparts and by each of the parties hereto on separate counterparts, all such counterparts together constituting but one and the same instrument, with the counterparts delivered to the Trustee pursuant to the Indenture being deemed originals and all other counterparts being deemed duplicates.

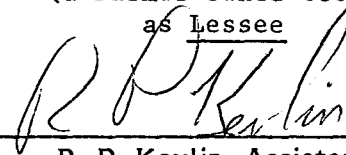
IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

UNITED STATES TRUST COMPANY OF NEW YORK,  
not in its individual capacity, but solely as  
Trustee under a Trust Agreement dated as of  
June 10, 1980 between it and GENERAL ELECTRIC  
CREDIT CORPORATION,  
as Lessor

By   
Assistant Vice President

Date June 16, 1980

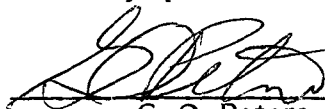
AMERICAN GRAIN AND RELATED INDUSTRIES  
(a Farmer-owned Cooperative)  
as Lessee

By   
R. P. Kevlin, Assistant Vice-President  
Date June 12, 1980

Address: AGRI Industries  
P. O. Box 4887  
Des Moines, Iowa 50306

Attention: Mr. Patrick Kevlin

The undersigned hereby certifies that the person executing this Lease on behalf of the Lessee holds the indicated office, was duly elected thereto and at all relevant times has been a duly qualified and acting officer of the Lessee.


  
Date: G. O. Peters, Assistant Secretary  
June 12, 1980

STATE OF NY

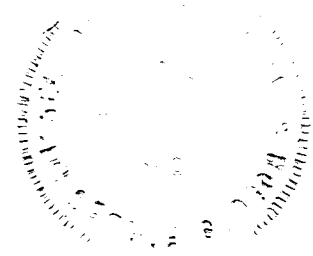
COUNTY OF NY, ss:

On this 16 day of June, 1980, before me personally appeared George Beswell to me personally known who being by me duly sworn, says that he is the Asst Vice President of United States Trust Company of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of it's Board of ~~Directors~~ <sup>Trustees</sup>, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)

  
HOLLIS FORBES RUSSELL  
Notary Public, State of New York  
No. 31-4705793  
Qualified in New York County  
~~Commission Expires March 31, 1981~~  
Title of Officer

My Commission expires \_\_\_\_\_

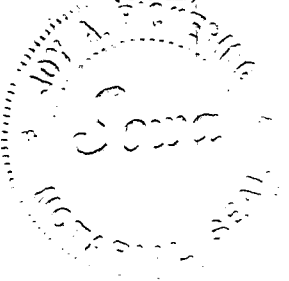


STATE OF IOWA

COUNTY OF POLK, ss:

On this 12th day of June, 1980, before me personally appeared R. P. Kevlin to me personally known who being by me duly sworn, says that he is the Assist. Vice-President of American Grain and Related Industries (a Farmer-owned Cooperative), that said instrument was signed on behalf of said corporation by authority of it's Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)



Joy A. Pickering  
Joy A. Pickering

Notary Public in and for the State of Iowa  
Title of Officer

My Commission expires September 30, 1982

EXHIBIT A  
to Lease  
DESCRIPTION OF EQUIPMENT

150 (one hundred fifty) 4750-cubic foot 100-ton covered hopper rail cars manufactured by Trinity Industries, Dallas, Texas, which are or will be identified by Lessee's identification numbers ALEX 1300 through ALEX 1449, inclusive. The Estimated Lessor's Cost for each such hopper car is \$44,000.

100 (one hundred) 4750-cubic foot 100-ton covered hopper rail cars manufactured by Pullman Industries, Chicago, Illinois, which are or will be identified by Lessee's identification numbers ALEX 1200 through ALEX 1299, inclusive. The Estimated Lessor's Cost for each such hopper car is \$45,000.

EXHIBIT B

CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

under

EQUIPMENT LEASE dated as of June 10, 1980 (the Lease) between UNITED STATES TRUST COMPANY OF NEW YORK, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of June 10, 1980 between it and GENERAL ELECTRIC CREDIT CORPORATION, as lessor (the Lessor), and AMERICAN GRAIN AND RELATED INDUSTRIES (a Farmer-owned Cooperative) as lessee (the Lessee).

1. Items of Equipment

The Lessee hereby certifies that the Items of Leased Equipment set forth and described in Schedule 1 hereto (which Schedule includes the amount of the Lessor's Cost of each such Item), have been delivered to the location indicated below, inspected by the Lessee, found to be in good order and accepted as Items of Leased Equipment under the Lease, all on the Date of Acceptance set forth below:

Location:

Date of Acceptance:

2. Representations by the Lessee

The Lessee hereby represents and warrants to the Lessor, each Beneficiary, the Trustee, each Long-Term Lender and the Interim Lender, if any, as such terms are defined in the Lease and the Participation Agreement, that on the Date of Acceptance set forth above:

(1) the representations and warranties of the Lessee set forth in the Participation Agreement, as such term is defined in the Lease, are true and correct in all material respects as though made on and as of such Date of Acceptance;

(2) the Lessee has satisfied or complied with all requirements set forth in the Participation Agreement, in any certificate of the Lessee and in the Lease to be satisfied or complied with on or prior to such Date of Acceptance;

(3) no Default or Event of Default under the Lease has occurred and is continuing on such Date of Acceptance; and

(4) the Lessee has obtained, and there are in full force and effect, such insurance policies with respect to each Item of Leased Equipment accepted pursuant hereto as are required to be obtained under the terms of the Lease.

AMERICAN GRAIN AND RELATED INDUSTRIES  
(a Farmer-owned Cooperative)  
as Lessee

By \_\_\_\_\_

Accepted on the Date of Acceptance  
set forth in paragraph 1 above on  
behalf of the Lessor:

AMERICAN GRAIN AND RELATED INDUSTRIES,  
(a Farmer-owned Cooperative) as authorized  
representative of the Lessor pursuant to  
Section 10 of the Participation Agreement

By \_\_\_\_\_

SCHEDULE 1 to  
CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

Description of Equipment and Lessor's Cost:

4750-cubic foot 100-ton covered hopper rail cars manufactured by Trinity Industries or Pullman Industries as follows:

<u>Lessee's Identification Number</u>	<u>Manufacturer</u>	<u>Lessor's Cost</u>
---	---------------------	--------------------------

Total \$ \_\_\_\_\_



EXHIBIT C

Date of Lease: As of June 10, 1980.

Beneficiary: General Electric Credit Corporation  
260 Long Ridge Road  
Stamford, Connecticut 06904  
  
Attention: Manager - Operations

Rent Commencement Date: With respect to each Item of Leased Equipment, the Date of Acceptance with respect to such Item

Interest Rate: 15% per annum

Late Payment Rate: A rate per annum equal to 1% over the Interest Rate, but in no event at a rate per annum greater than that permitted by applicable law

Basic Rent Dates: February 1, May 1, August 1, November 1.

First Delivery Date: Any date not earlier than the Document Closing Date or after the Cut Off Date set forth in the Participation Agreement

Final Delivery Date: Any date not earlier than the Document Closing Date or after the Cut Off Date set forth in the Participation Agreement

Interim Rent Date: August 1, 1980

First Basic Rent Date: November 1, 1980

Last Basic Rent Date: August 1, 1998

Expiration Date: August 1, 1998

Basic Lease Rate Factor:

Items of Equipment accepted on  
or before June 30, 1980

Basic Rent Dates	1-40	2.675%
Basic Rent Dates	41-72	3.195%

Items of Equipment accepted after  
June 30, 1980

Basic Rent Dates	1-40	2.86036%
Basic Rent Dates	41-72	3.41639%

Daily Long-Term Debt Rate:

1/365th of 15%.

Equipment Marking:

In letters not less than one inch in height  
"Owned by a Bank or Trust Co. Ownership  
subject to a Security Agreement filed  
with the Interstate Commerce Commission."

Return of Equipment:

At interchange points in Des Moines, Iowa and/or  
Council Bluffs, Iowa.

Insurance:

Casualty Insurance:

An amount not less than the Casualty Value  
of each Item of Leased Equipment.

Public Liability  
Insurance:

\$2,000,000.00

EXHIBIT D

The Casualty Value of each Item of Leased Equipment shall be the percentage of Lessor's Cost of such Item set forth opposite the number of the applicable rent payment date in the table on Schedule 1 attached hereto.

The numbers in the columns designated "A" are the Rent Payment Numbers. Rent Payment Number 1 is the Interim Rent Date, August 1, 1980. Rent Payment Numbers 2 through 73 are the Basic Rent Dates, November 1, 1980 through August 1, 1998.

The numbers in the columns designated "B" are the Casualty Values for the corresponding Rent Payment Numbers.

Casualty Values are expressed as percentages of Lessor's Cost. Such percentages have been computed without regard to recapture of Investment Credit. Consequently, such percentages applicable on the Interim Rent Date or any Basic Rent Date where Casualty Values shall be payable with respect to an Event of Loss occurring before the third, fifth or seventh anniversary of the date of acceptance set forth in the Certificate of Acceptance for such Item shall be increased by the percentage of Lessor's cost set forth below, and for purposes of this Lease, Casualty Values payable on such dates shall be determined on the basis of the sum of such percentages:

<u>Anniversary of the Date of Acceptance</u>	<u>Percentage of Lessor's Cost To be Added to the Foregoing Percentage</u>
Third	19.23077%
Fifth	12.82052%
Seventh	6.41026%

In the event the Basic Lease Rate Factor is increased pursuant to the Indemnity Agreement dated as of June 10, 1980 between Lessee and Beneficiary, Casualty Values shall be adjusted accordingly.

# AGRI INDUSTRIES

## PROPOSED TRANSACTION FOR 250 COVERED HOPPERS

### CASUALTY TABLE

(Assuming All Deliveries Prior To June 30, 1980)

#### NOTE:

Table Values Do Not Include ITC Recapture

A	B	A	B
<u>Rental</u>	<u>Casualty Value</u>	<u>Rental</u>	<u>Casualty Value</u>
1	89.10	37	91.45
2	90.45	38	90.59
3	91.55	39	89.70
4	92.51	40	88.77
5	93.41	41	87.81
6	94.23	42	86.29
7	94.99	43	84.74
8	95.69	44	83.14
9	96.32	45	81.50
10	96.89	46	79.83
11	97.40	47	78.11
12	97.85	48	76.36
13	98.24	49	74.57
14	98.57	50	72.74
15	98.84	51	70.87
16	99.06	52	68.98
17	99.21	53	67.04
18	99.31	54	65.07
19	99.36	55	63.06
20	99.34	56	61.01
21	99.28	57	58.93
22	99.15	58	56.80
23	98.98	59	54.64
24	98.75	60	52.43
25	98.47	61	50.18
26	98.14	62	47.89
27	97.76	63	45.55
28	97.33	64	43.17
29	96.86	65	40.75
30	96.33	66	38.27
31	95.76	67	35.76
32	95.15	68	33.21
33	94.49	69	30.63
34	93.79	70	28.02
35	93.05	71	25.38
36	92.27	72	22.70
		73	20.00

# AGRI INDUSTRIES

## PROPOSED TRANSACTION FOR 250 COVERED HOPPERS

### CASUALTY TABLE

(Assuming Cars Delivered After June 30, 1980)

NOTE:

Table Values Do Not Include ITC Recapture

A	B	A	B
<u>Rental</u>	<u>Casualty Value</u>	<u>Rental</u>	<u>Casualty Value</u>
1	88.95	37	95.89
2	90.59	38	95.01
3	91.97	39	94.08
4	93.22	40	93.12
5	94.39	41	92.12
6	95.49	42	90.53
7	96.49	43	88.90
8	97.43	44	87.21
9	98.29	45	85.49
10	99.08	46	83.72
11	99.80	47	81.91
12	100.45	48	80.05
13	101.03	49	78.15
14	101.53	50	76.21
15	101.97	51	74.24
16	102.34	52	72.22
17	102.64	53	70.16
18	102.88	54	68.07
19	103.04	55	65.93
20	103.15	56	63.75
21	103.19	57	61.53
22	103.16	58	59.26
23	103.07	59	56.95
24	102.92	60	54.59
25	102.71	61	52.18
26	102.44	62	49.73
27	102.11	63	47.23
28	101.72	64	44.68
29	101.28	65	42.07
30	100.79	66	39.42
31	100.23	67	36.72
32	99.63	68	34.00
33	98.98	69	31.24
34	98.28	70	28.47
35	97.52	71	25.67
36	96.73	72	22.84
		73	20.00